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EXAMINER

JOHNSON, GREGORY L

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PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/802,861	Applicant(s) FICERY ET AL.	
	Examiner GREGORY JOHNSON	Art Unit 3691	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 14 April 2009.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-30 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-30 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. This communication is in response to the amendment filed April 14, 2009.

Status of Claims

2. Claims 1 and 16 have been amended. Claims 2-15 and 17-30 are as previously presented. **Claims 1-30** are pending.

Response to Arguments

3. Applicant's arguments with respect to claims 1-30 have been considered but are moot in view of the new ground(s) of rejection.

Claim Rejections - 35 USC § 101

4. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

5. **Claims 1-30** were previously rejected under 35 U.S.C. 101 because the claimed invention was directed to non-statutory subject matter. However, in view of Application's amendments, the rejections have been withdrawn.

Claim Rejections - 35 USC § 102

6. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

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7. Claims 1-2, 5-9, 11-12, 15-20, 23-24, 26-27 and 30 rejected under 35

U.S.C. 102(b) as being anticipated by Sarno, Pub. No. 2002/0042751 (hereinafter Sarno).

As per claim 1, Sarno discloses an electronic network system adapted to generate cost reduction strategies for a target company (Abstract, ¶0080 and ¶0205), said network system comprising:

- a cost lever analysis tool that (1) receives financial data inputs regarding the target company (¶0076, ¶0079, ¶0084 and ¶0133; via entering or changing financial data),
- (2) calculates normalized diagnostic information regarding the cost structure of the target company based on financial data inputs (¶0020, ¶0029, ¶0033, ¶0110, ¶0112, ¶0116-0124 and ¶0161; via internal rate of return, ROI, etc.),
- (3) displays the normalized diagnostic information (¶0019 and ¶0169-0173; via display results to user),
- (4) receives cost levers based on the normalized diagnostic information (¶0027, ¶0083, ¶0088-0091, ¶0137, ¶0166, ¶0169 and ¶0174; via cost of implementing a vendor's solution, such as a data warehousing; purchasing cost, training cost, etc.), and
- (5) transmits the cost levers (¶0019, ¶0080 and ¶0169-0173);

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- a cost reduction strategy tool that receives the cost levers (§§0077, §§0089-0091, §§0117, §§0144, §§0156, §§0158 and §§0166; via the system calculates a cost reduction), the strategy tool including:
- a generation module that generates a cost reduction strategy for one or more of the cost levers (Abstract, §§0031-0033, §§0074, §§0137, §§0166, §§0169 and §§0174; via generating a business case);
- a linking module-that correlates the cost reduction strategy (e.g. data warehousing) with corresponding ones of the cost levers (e.g. purchasing cost, training cost, etc.) [§§0027, §§0032-0033, §§0072-0073, §§0090, §§0137, §§0166, §§0169, §§0174 and Figs. 1H-J; via business case and the resulting report]; and
- an implementation module that generates implementation information related to implementing the cost reduction strategy (Abstract, §§0018 and §§0072-0074; via rollout information and tracking the results of the implementation); and
- an output module that outputs the cost reduction strategy and the implementation information (§§0019, §§0077 and §§0169-0173; via output report, business case and display results to user),
- wherein the cost lever analysis tool and the cost reduction strategy tool are run on at least one processor (§§0013).

As per claim 2, Sarno discloses wherein said the implementation information includes at least one of case studies, implementation plans, integration implications, and sample benefit and impact forecasts (Abstract, ¶0029-0033, ¶0077, ¶0118-0119, ¶0136 and ¶0156-0159).

As per claim 5, Sarno discloses wherein a plurality of case studies are correlated with each cost reduction strategy (¶0156).

As per claim 6, Sarno discloses wherein the implementation information includes case studies derived from more than one industry (¶0156).

As per claim 7, Sarno discloses wherein the output module generates a cost-reduction strategy template for the target company (¶0201).

As per claim 8, Sarno discloses wherein the cost reduction strategy includes the implementation information (¶0186-0187, ¶0190-0196 and ¶0201).

As per claim 9, Sarno discloses wherein the implementation information includes at least one of economic impacts, strategy goal summaries, expected implementation schedules and plans, projected cost considerations, and projected key benefits (¶0029 and ¶0118-0119).

As per claim 11, Sarno discloses wherein the cost lever analysis tool generates summary reports, the summary reports including at least one of metrics or diagnostic ratios of the target company (¶0029, ¶0110, ¶0112 and ¶0117).

As per claim 12, Sarno discloses wherein the summary reports include charts or diagrams comparing the metrics or the diagnostic ratios to baseline industry information (¶0033, ¶0121 and ¶0137).

As per claim 15, Sarno discloses wherein at least one of the cost lever analysis tool, the cost reduction strategy tool, and the output module is located on server electronically accessible by remote users (Abstract, ¶¶0080 and ¶¶0205).

As per claim 16, Sarno discloses a computer-readable storage medium encoded with instructions which, when executed on a processor (Abstract, ¶¶0013, ¶¶0080 and ¶¶0205), perform a method comprising:

- receiving financial data inputs regarding a target company (¶¶0076, ¶¶0079, ¶¶0084 and ¶¶0133; via entering or changing financial data);
- calculating normalized diagnostic information regarding the cost structure of the target company based on the financial data inputs (¶¶0020, ¶¶0029, ¶¶0033, ¶¶0110, ¶¶0112, ¶¶0116-0124 and ¶¶0161; via internal rate of return, ROI, etc.);
- displaying the normalized diagnostic information (¶¶0019 and ¶¶0169-0173; via display results to user); and
- receiving cost levers of the target company based on the normalized diagnostic information (¶¶0027, ¶¶0083, ¶¶0088-0091, ¶¶0137, ¶¶0166, ¶¶0169 and ¶¶0174; via cost of implementing a vendor's solution, such as a data warehousing; purchasing cost, training cost, etc.);
- generating a cost reduction strategy for one or more of the cost levers (Abstract, ¶¶0031-0033, ¶¶0074, ¶¶0137, ¶¶0166, ¶¶0169 and ¶¶0174; via generating a business case);

- correlating the cost reduction strategy with corresponding ones of the cost levers.) [¶0027, ¶0032-0033, ¶0072-0073, ¶0090, ¶0137, ¶0166, ¶0169, ¶0174 and Figs. 1H-J; via business case and the resulting report];
- generating implementation information related to implementing the cost reduction strategy (Abstract, ¶0018 and ¶0072-0074; via rollout information and tracking the results of the implementation); and
- outputting the cost reduction strategy and the implementation information (¶0019, ¶0077 and ¶0169-0173; via output report, business case and display results to user).

Claims 17-19 recite equivalent limitations to claims 7-9, respectively, and are therefore rejected using the same art and rationale as set forth above.

Claim 20 recites an equivalent limitation to claim 2, and is therefore rejected using the same art and rationale as set forth above.

Claims 23-24 recite equivalent limitations to claims 5-6, respectively, and are therefore rejected using the same art and rationale as set forth above.

Claims 26-27 recite equivalent limitations to claims 11-12, respectively, and are therefore rejected using the same art and rationale as set forth above.

Claim 30 recites an equivalent limitation to claim 15, and is therefore rejected using the same art and rationale as set forth above.

Claim Rejections - 35 USC § 103

8. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

9. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

10. **Claims 10, 13-14, 25 and 28-29** are rejected under 35 U.S.C. 103(a) as being unpatentable over Sarno, in view of Heyns et al., Pub. No. 2004/0073467 (hereinafter Heyns).

As per claims 10, 13-14, 25 and 28-29, Sarno does not disclose the following limitations; however, these limitations are taught by Heyns:

- wherein the cost lever analysis tool further comprises a calculation module that calculates a total return to shareholders using a calculated return on invested capital, a calculated weighted average cost of capital, a calculated organic growth, and a calculated merger and acquisition growth based on the financial input data (See paragraph 60, which discuss

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metrics including, capital weighted average cost of capital, NOPLAT growth, capital expenditure ratio, etc.);

- wherein the baseline industry information comprises metrics or diagnostic ratios pertaining to industry competitors of the target company (See paragraphs 53 & 58, which discusses financial comparative analysis for a target company correlated with classes of industry, and how to user can compare competitor companies side-by-side); and
- wherein the summary reports include shareholder return graphs, the shareholder return graphs comparing a growth compound annual growth rate to a spread for the target company and industry peers of the target company (See figures 5-9, and paragraph 19, which illustrates and discusses shareholder value analysis; and, furthermore, screen shots of graphs, tabular printouts, bar charts, etc. based on a metric or metrics selected by the user).

Claims 25 and 28-29 recite equivalent limitations to claims 10 and 13-14, respectively, and are therefore rejected using the same art and rationale as set forth above.

It would have been obvious to one of ordinary skill in the art at the time of Applicant's invention to include the aforementioned limitations as taught by Heyns within Sarno for the motivation to provide a method for efficiently setting strategic targets and budgets within a business organization so as to increase cash flow and shareholder value (¶0002).

11. Claims 3-4 & 21-22 are rejected under 35 U.S.C. 103(a) as being unpatentable over Sarno, in view of Official Notice.

Note: Applicant's failure to adequately traverse the assertions made by the previous Examiner in the rejections of claims 3-4 and 21-22 (re: "hyperlink documents" and "documents can be cross-linked to each other") is taken to be admitted prior art.

[see MPEP 2144.03(C)]

As per claim 3, Sarno does not expressly disclose wherein said overviews comprise hyperlinked overview documents.

The Examiner takes Official Notice that it is old and well known in the art to provide hyperlinks for documents (See, e.g., claim 32 of Wallenius (U.S. 7,139,813) which discloses, teaches, and suggests hyperlinked and cross-linked documents). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Sarno to include hyperlinked overview documents that link different documents (See plain meaning of hyperlink...Webster's Dictionary).

As per claim 4, Sarno does not expressly disclose wherein the documents can be cross-linked to each other.

The Examiner takes Official Notice that it is old and well known in the art to cross-link documents containing related subject matter (See, e.g., claim 32 of Wallenius (U.S. 7,139,813) which discloses, teaches, and suggests hyperlinked and cross-linked documents). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Sarno to include cross-linking overview documents for related business capabilities in order to provide quick and efficient

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comparison of relevant strategic objectives via a links for different documents (See plain meaning of hyperlink...Webster's Dictionary).

Claims 21-22 recite equivalent limitations to claims 3-4, respectively, and are therefore rejected using the same art and rationale as set forth above.

Conclusion

12. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Tang et al. (U.S. 6,988,092) discloses a method for evaluation of energy utilities.

Thomas et al. (U.S. 6,983,320) discloses a system, method and computer program product for analyzing e-commerce competition of an entity by utilizing predetermined entity-specific metrics and analyzed statistics from web pages.

Heyns et al. (U.S. 2004/0073442) discloses strategic planning and valuation.

Heyns. et al. (U.S. 2004/0073441) discloses planning for valve.

Olchanski et al. (U.S. 2003/0158749) discloses performance outcomes benchmarking.

White, Jr. (U.S. 6,088,676) discloses a system and method for testing prediction models and/or entities.

Eden et al. (U.S. 2005/0171918) discloses a method and system of cost variance analysis.

Wallenius (U.S. 7,139,813) discloses timedependent hyperlink system in videocontent.

Kataoka (U.S. 2004/0186765) discloses a business profit improvement support system.

Buck (U.S. 2004/0030592) discloses business data analysis.

Block et al. (U.S. 2003/0172013) discloses a business analysis tool.

Chrabaszcz (U.S. 6,363,497) discloses a system for clustering software applications.

13. Any inquiry concerning this communication or earlier communications from the examiner should be directed to GREGORY JOHNSON whose telephone number is (571)272-2025. The examiner can normally be reached on Monday - Friday, 8:30AM - 5:00PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, ALEXANDER KALINOWSKI can be reached on (571) 272-6771. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Alexander Kalinowski/
Supervisory Patent Examiner, Art Unit 3691

GREGORY JOHNSON
Examiner, Art Unit 3691